

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2927 – SB 3049

June 2, 2010

SUMMARY OF AMENDMENTS (018224, 019316): Amendment 018224 deletes the language of the original bill. Designates proprietary information provided by applications to the Department of Economic and Community Development (ECD) after July 9, 2009, as confidential tax information. Authorizes the Commissioners of Revenue and ECD to allocate up to \$80 million in additional investment tax credits to the TNInvestco program. Prohibits the total amount of tax credits from exceeding \$200 million. Requires the Commissioners of Revenue and ECD and the Tennessee Technology Development Corporation to conduct an annual review of each TNInvestco at the end of each fiscal year. Authorizes a penalty equal to 80 percent of any distribution from the TNInvestco's investment if the business fails to locate its headquarters and 60 percent of all employees within Tennessee. Authorizes a penalty of \$250,000 paid to the Rural Opportunity Fund if areas of noncompliance are not cured by a TNInvestco company within one year of the original finding. Authorizes the Commissioners of Revenue and ECD to contract for legal services. Requires the Commissioners of Revenue and ECD in consultation with the state Treasurer to create a score card with objectives used to measure the TNInvestco's investment strategy. Requires a copy of each annual report to be posted on the TNInvestco website. Requires ECD to provide the Comptroller of the Treasury with a copy of written findings made as a result of annual report reviews when requested by the Comptroller. Requires TNInvestcos to maintain a website providing professional biographical information on each member executive manager and its availability of capital. Requires ECD to maintain a website providing general information about TNInvestco and links to each qualified TNInvestco. Requires each qualified TNInvestco to keep a link to ECD on its company website.

Amendment 019316 defines "minority-owned business" as a business where at least 51 percent of the assets, stock and daily operations are owned or managed by members of any racial or ethnic minority within the state. Defines "woman-owned business" as a business where at least 51 percent of the assets, stock and daily operations are owned or managed by women. Requires investments made by TNInvestcos to reflect gender and ethnic diversities within the state. Requires ECD to promote participation in the TNInvestco program among minority-owned and woman-owned businesses. Requires ECD to provide training and educational programs to encourage minority-owned and woman-owned businesses to apply for investments granted by TNInvestcos. Requires 25 percent of profit sharing distributions collected from TNInvestcos to be transferred to the small business and minority-owned business assistance program. Requires TNInvestcos to report all qualified investments made in the previous taxable year including the number of employees of each qualified business at the time of the investment and as of December 1 of the preceding taxable year. Requires ECD and the Department of Revenue to consider the involvement of women and minorities as new TNInvestco applicants and to select applicants whose membership reflects the ethnic and gender diversity of the state.

FISCAL IMPACT OF ORIGINAL BILL:

MINIMAL

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue –

**Net Impact – Exceed \$5,250,000/Over-Time/Rural Opportunity Fund
Exceed \$1,750,000/Over-Time/ Small and Minority-Owned
Business Assistance Program Fund
\$20,000/Economic and Community Development/Recurring**

Increase State Expenditures –

\$20,000/Economic and Community Development/Recurring

Other Fiscal Impact – The authorization of investment tax credits would cause a decrease of revenue to the General Fund of \$80,000,000 unless such revenue is replaced by another source of revenue. This total decrease would occur over a nine-year period (FY11-12 through FY19-20). However, the first \$80,000,000 of profit share percentage distributions made from TNInvestcos to the state shall be allocated to the General Fund for the purpose of offsetting any such decrease that would occur due to the authorization of investment tax credits. As a result, the net impact to the General Fund is not significant. Any subsequent distributions and additional tax revenue generated from this act will then be allocated to the Rural Opportunity Fund and the Small and Minority-Owned Business Assistance Program Fund to further support the state's economic development efforts.

A more precise cost estimate is not possible because the Department of Economic and Community Development and the Department of Revenue have not provided any information to assist in the preparation of this fiscal note.

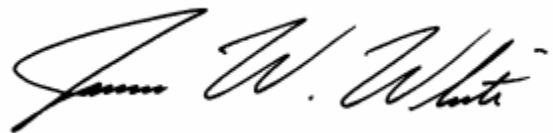
Assumptions applied to amendments:

- According to information previously provided by ECD, the Department will not require additional positions to administer the program. Including two additional companies in the TNInvestco program can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Gross premium tax revenue is deposited to the General Fund.
- Given the aggregate maximum of investment tax credits is established at \$200,000,000, and that such tax credits are to be utilized over a nine-year period, it is estimated that gross premium tax revenue to the General Fund would decrease by \$200,000,000 over a nine-year period (from FY11-12 through FY19-20) unless replaced by another source of revenue.
- According to DOR, the capital investment ventures undertaken by the TNInvestcos will produce at least a 12 percent rate of return.

- Participating investors are required to pay an annual certification fee of \$5,000 each year (or \$10,000 if paid after April 1 of each year) resulting in an increase in state revenue of \$20,000. There will be a corresponding increase in state expenditures to perform audits and legal services.
- Based on information previously provided by DOR, profit share percentage distributions from TNInvestcos to the state are expected to exceed \$87,000,000 over time. The first \$80,000,000 of such distributions will be allocated to the General Fund; an amount estimated to exceed \$5,250,000 will be allocated to the Rural Opportunity Fund and an amount estimated to exceed \$1,750,000 will be allocated to the Small and Minority-Owned Business Assistance Program Fund.
- Requiring annual reports to be posted on the TNInvestco website can be accommodated within existing department resources without an increased appropriation or reduced reversion.
- Requiring ECD to provide the Comptroller with a copy all findings occurring from each TNInvestco's annual report can be accommodated within existing department resources without an increased appropriation or reduced reversion.
- Requiring ECD maintain a website with general information about each TNInvestco can be accommodated within existing department resources without an increased appropriation or reduced reversion.
- Requiring ECD to provide training and education programs to encourage minority-owned and woman-owned business to seek investments from TNInvestcos can be accommodated within existing department resources without an increased appropriation or reduced reversion.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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